

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

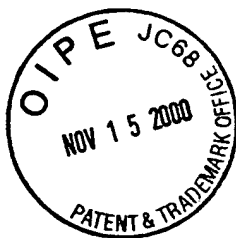
In re Application of :

DITCH et al.

Serial No.: 09/238,510

Filed: January 27, 1999

For: Tie Down for Wheelchairs



Art Unit:3612

Examiner: Gordon

Petition to Suspend
H6/11/29/00
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PETITION TO SUSPEND ACTION PURSUANT TO 37 CFR §1.103

Hon. Director of the Patent
and Trademark Office
Washington, D. C. 20231

SIR:

Applicants in the above-identified application hereby respectfully request the Director to suspend action in this application for a period of six months for the following reasons. The status of the instant application is that a response to a requirement for restriction is being filed contemporaneously herewith.

The parent patent, USP 5,888,038, is the subject of two actions presently pending in the United States District Court for the Western District of Michigan, Southern Division. These actions are *American Seating Company v. Transportation Seating, Inc.*, Case 1:00 CV 322 and *American Seating Company v. Freedman Seating Company and Kinedyne Corporation*, Case 1:00 CV 417. In both of these actions, defendants have alleged prior invention by Richard Craft of Transportation Seating, Inc. and derivation by one or more of the inventors of the instant application. While American Seating

Company, the assignee of the instant application has denied these allegations, the District Court actions are in such a posture that these issues have yet to be fully developed or resolved.

Discovery is presently ongoing in both District Court actions and is not scheduled to close until May 15, 2001, in one case (Transportation Seating) and June 29, 2001, in the other.

It is submitted that it would not be appropriate to proceed with the instant application until these issues are fully developed or resolved because their outcomes will affect patentability of the claims herein. Accordingly, suspension of the prosecution of the instant application is appropriate.

Enclosed is a check in the amount of \$130, representing the fee under 37 CFR §1.17(i). Please charge any necessary fees and credit any excess to deposit account 50-1088.

Respectfully Submitted,
CLARK & BRODY



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